

-8-

REMARKS

In response to the Office Action mailed January 10, 2005, Applicants respectfully request reconsideration. To further the prosecution of this Application, Applicants submit the following remarks, have canceled claims and have added new claims. The claims as now presented are believed to be in allowable condition.

Claims 1-6 and 13-18 were pending in this Application. By this Amendment, claims 13-18 have been canceled. Applicants expressly reserve the right to prosecute at least some of the canceled claims and similar claims in one or more related Applications. Claims 25-38 have been added. Accordingly, claims 1-6 and 25-38 are now pending in this Application. Claims 1, 33 and 36 are independent claims.

Rejection under §102

Claims 1-6 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,763,069 (Jordan).

Applicants respectfully traverse this rejection and request reconsideration. The claims are in allowable condition because they patentably distinguish over the cited prior art.

Jordan discloses that bulk containers constructed from woven tapes of synthetic materials, such as polyolefins and polyester, are widely used for storing, handling and transporting bulk particular materials such as fertilizers, cement, chemicals, agricultural products, minerals and the like (column 1, lines 15-18). Jordan further discloses techniques for making electrically conductive multilayer tapes, as well as fabrics and fabric products comprising such tapes (column 1, lines 8-12). In particular, the Jordan tapes' essentially flat nature and essentially rectangular cross sections make them well suited for weaving into flat fabrics of the type used for manufacture of bags and containers (column 5, lines 44-48). Film is preferably slit into a plurality of tapes by knife blades laterally spaced apart at appropriate distances (column 13, lines 20-22). The tapes are

then oriented by passing them via rotating rolls into a heating zone, such as an oven, and stretching or drawing therein to provide orientation (column 13, lines 22-24). The tapes are then gathered and individual tapes are wound onto separate spools or fed directly to weaving or knitting equipment (column 13, lines 34-36). In a preferred embodiment, the tapes are obtained as monoaxially oriented, substantially flat, multilayer structures having a thickness of about 25 to about 220 microns and a width of about 1 to about 5 millimeters (column 13, lines 36-40).

Claims 1-6

Claim 1 is directed to a method for making mono-axially oriented draw tape. The method includes the steps of forming a solid sheet of thermoplastic material from molten thermoplastic material, and producing a set of draw tape feeds from the solid sheet of thermoplastic material. The method further includes the step of stretching and annealing the set of draw tape feeds to orient molecules within the set of draw tape feeds such that tensile strength of each draw tape feed is greater in a first direction than in a second direction which is substantially perpendicular to the first direction.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."¹ "The identical invention must be shown in as complete detail as is contained in the ... claim."² Jordan does not disclose a method for making mono-axially oriented **draw tape**, as recited in claim 1. The term "draw tape" has a very precise meaning in that it refers to the material within a draw tape bag that, when pulled together, enables a user to close the top of the bag and carry the bag. This explanation is provided within the specification, for example, on page 1, lines 7-12.

¹ *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

² *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

-10-

In contrast, Jordan discloses techniques for making electrically conductive multilayer tapes for use in fabrics and fabric products comprising such tapes (e.g., see column 1, lines 8-12 of Jordan). Although Jordan coincidentally refers to his product as "tape", the Jordan tape is clearly not intended for use as draw tape of a draw tape bag, and is clearly unsuitable for use as draw tape (e.g., see column 13, lines 36-40 of Jordan). Rather, Jordan mentions using the Jordon tape to weave bulk containers to store, handle and transport bulk particular materials such as fertilizers, cement, chemicals, agricultural products, minerals and the like (e.g., see column 1, lines 15-18 of Jordan).

Moreover, Applicants cannot find any mention of the term "draw tape" within Jordan, and there is certainly no disclosure of any step of producing a set of draw tape feeds, or stretching and annealing the set of draw tape feeds, as recited in claim 1. Along these lines, the Office Action may contend that Jordan teaches a method for making tape (see paragraph 2 on page 2 of the Office Action), but even the Office Action does not assert and cannot fairly assert that Jordon discloses a method for making "draw tape", as recited in claim 1. Accordingly, Jordan does not disclose the identical invention, as is contained in claim 1.

For the reasons stated above, claim 1 patentably distinguishes over the cited prior art, and the rejection of claim 1 under 35 U.S.C. §102(b) should be withdrawn. As a result, claim 1 is in allowable condition.

Because claims 2-6 depend from and further limit claim 1, claims 2-6 are in allowable condition for at least the same reasons.

Newly Added Claims

Claims 25-38 have been added and are believed to be in allowable condition. Claims 33 and 36 are independent claims. Claims 25-32 depend from claim 1. Claims 34-35 depend from claim 33. Claims 37-38 depend from claim 36. Support for claims 25, 27-28, 33-38 is provided within the Specification, for example, on page 1, lines 11-12 and page 16, line 10, through page 18, line 11.

-11-

Support for claim 26 is provided within the Specification, for example, on page 8, line 24 through page 9, line 2. Support for claims 29-30 is provided within the Specification, for example, on page 13, line 25 through page 15, line 10. Support for claim 31-32 is provided within the Specification, for example, on page 10, line 21 through page 11, line 26. No new matter has been added.

Conclusion

In view of the foregoing remarks, this Application should be in condition for allowance. A Notice to this affect is respectfully requested. If the Examiner believes, after this Amendment, that the Application is not in condition for allowance, the Examiner is respectfully requested to call the Applicant's Representative at the number below.

Applicants hereby petition for any extension of time which is required to maintain the pendency of this case. If there is a fee occasioned by this Amendment, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50-0901.

-12-

If the enclosed papers or fees are considered incomplete, the Patent Office is respectfully requested to contact the undersigned collect at (508) 366-9600, in Westborough, Massachusetts.

Respectfully submitted,



David E. Huang, Esq.
Attorney for Applicant(s)
Registration No.: 39,229
CHAPIN & HUANG, L.L.C.
Westborough Office Park
1700 West Park Drive
Westborough, Massachusetts 01581
Telephone: (508) 366-9600
Facsimile: (508) 616-9805

Attorney Docket No.: FXI03-01

Dated: May 10, 2005